UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/522,621	MATSUNAGA, KIYOBUMI
	Examiner	Art Unit	
	NNENNA N. EKPO	2425	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 July 2009</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 3-23</u> is/are pending in the application.

    4a) Of the above claim(s) <u>2</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1, 3-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Previous claim objection to claims 1, 3-8 and 11-14 are withdrawn in view of

Applicant's amendment filed on 07/15/2009.

Claim Objections

2.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: There is no mention of "computer readable storage medium"

in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

3.   **Claims 1, 3-8 and 11-14** are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the written description requirement. The claim(s) contains subject

matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention. There is no corresponding

adequate support for the means plus function in the specification and drawing.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   **Claims 1, 3-8 and 11-14** are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

If there is no disclosure of structure, material or acts for performing the recited

function, the claim fails to satisfy the requirements of 35 U.S.C. 112, second paragraph.

>"[A] bare statement that known techniques or methods can be used does not disclose

structure" in the context of a means plus function limitation. Biomedino, LLC v. Waters

Technology Corp ., 490 F.3d 946, 952, 83 USPQ2d 1118, 1123 (Fed. Cir. 2007)

(Disclosure that an invention "may be controlled by known differential pressure, valving

and control equipment" was not a disclosure of any structure corresponding to the

claimed "control means for operating [a] valving " and the claim was held indefinite.)

See MPEP 2181.

Response to Arguments

5.   Applicant's arguments filed 07/15/2009 have been fully considered but they are

not persuasive.

6.   Applicant argues on page 17+ of the 07/15/2009 Remarks that Akazawa et al.

(U.S. Publication No. 2003/0065794) fails to disclose "displaying a download button

requesting to download software executing a function when a button is selected".

Applicant also argues that Yen et al. fails to disclose "means for displaying a new

second button representing a new function corresponding to new function information".

Applicant argues that Miyashita (U.S. Publication No. 2001/0014876) fails to disclose "means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history".

In response to argument, Examiner respectfully disagrees. Akazawa et al. discloses displaying a download button requesting to download software executing a function when a button is selected in see fig 7 (B4), paragraphs 0042, 0046, lines 15-20, when a user selects download button B4, the requested function is executed. Applicant argues that reference does not teach a download button which is **displayed *only* when one of the said second buttons is selected**. Examiner points out that this limitation is not exactly claimed in the claim limitation. Applicant is reminded that claims are read in light of the specification and claims are interpreted in the broadest reasonable interpretation. Applicant also argues that the downloaded object in Akazawa et al. is non-functional. Examiner disagrees. The downloaded object is functional because it is only the information considered by necessary by the user is downloaded.

In response to argument that Yen fails to disclose means for displaying a new second button representing a new function corresponding to new function information. Examiner disagrees. Yen discloses this feature in see col. 3, lines 51-67 and fig 4, a new button is created and displayed corresponding with the new application functions added for users' convenience. Applicant argues that the new function icons must contain all the features of the second button which represent optional functions in a second display format. Examiner reminds applicant that this limitation is not exactly claimed in the claim limitation.

In response to Applicant argues that Miyashita (U.S. Publication No.
2001/0014876) fails to disclose "means for recognizing a category of the software
downloaded by said data processing apparatus with high frequency based on said
download history", Examiner disagrees. Miyashita discloses means for recognizing a
category of the software downloaded by said data processing apparatus with high
frequency based on said download history in paragraph 0059, with the broadest
reasonable interpretation, categories of software is functional equivalent to music/video
content. Miyashita discloses in paragraph 0059 that information about access status
can be collected, such as music/video content that was downloaded and how many
times, and in which time slot the content was most frequently downloaded.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   **Claims 1, 6-7, 9-10, 17 and 21-22** are rejected under 35 U.S.C. 103(a) as being
unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748) in view of
Akazawa et al. (U.S. Publication No. 2003/0065794) and Yen et al. (U.S. Patent No.
6,728,698).

Regarding **claims 1 and 17**, Rodriguez et al. discloses a communication system
comprising:

a data processing apparatus (TV, 41) configured to receive and process data (see paragraph 0045) and

a data providing apparatus (headend 11) configured to provide data to said data processing apparatus (see paragraph 0018, the headend provides television signals to cable-ready television sets);

wherein said data processing apparatus includes (TV, 41):

means for displaying first buttons (highlighted button e.g. Titanic) representing executable functions in a first display format (see fig 5) while displaying second buttons (non-highlighted regions e.g., sisters, story of us, Thomas Crown Affair etc) representing optional functions in a second display format (see fig 5 and 8, when "Titanic" is clicked on, the options "add comments, play from beginning of movie" etc is displayed);

means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons (see paragraph 0047, lines 9-21);

means for updating a display of the one of the second buttons by displaying the one of the second buttons in said first display format (see fig 8 and paragraph 0064, lines 4-14), and

wherein said data providing apparatus includes (see fig 2, headend (11)):.

However, Rodriguez et al. fails to specifically disclose displaying a download button requesting to download software executing a function when a button is selected, means for downloading said software provided by said data processing apparatus when said download button is selected, in response to a download request for software

implementing a function associated with a button, means for displaying a new second button representing a new function corresponding to new function information, means for receiving said download request for said software from said data processing apparatus, means for transmitting said software to said data processing apparatus in response to said download request for said software and means for transmitting information of a new function to said data processing apparatus when software exists for executing the new function.

Akazawa et al. discloses displaying a download button requesting to download software executing a function when a button is selected (see fig 7 (B4), paragraphs 0042, 0046, lines 15-20, when a user selects download button B4, the requested function is executed)

means for downloading said software provided by said data processing apparatus when said download button is selected, in response to a download request for software implementing a function associated with a button (see fig 7 (B4), paragraph 0047, lines 4-15,

means for receiving said download request for said software from said data processing apparatus (see paragraphs 0046 and 0057),

means for transmitting said software to said data processing apparatus in response to said download request for said software (see paragraphs 0046 and 0057),

execution of a download software (see fig 7 (B4)), and

means for transmitting information of a new function to said data processing

apparatus when software exists for executing the new function (see paragraphs 0047,

0054, lines 20-30 and 0057).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify means for displaying first buttons

representing executable functions in a first display format while displaying second

buttons representing optional functions in a second display format; means for executing

a function associated with one of said first buttons in response to an actuation of one of

the first buttons in Rodriguez et al. to include displaying a download button requesting to

download software executing a function when a button is selected as taught by

Akazawa et al. for the advantage of receiving a result from a request.

However, Rodriguez et al. and Akazawa et al. fail to specifically disclose means

for displaying a new second button representing a new function corresponding to new

function information.

Yen et al. discloses means for displaying a new second button representing a

new function corresponding to new function information (see col. 3, lines 51-67 and fig

4, a new button is created and displayed corresponding with the new application

functions added for users' convenience).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify means for displaying first buttons

representing executable functions in a first display format while displaying second

buttons representing optional functions in a second display format; means for executing

a function associated with one of said first buttons in response to an actuation of one of the first buttons and displaying a download button requesting to download software executing a function when a button is selected in Rodriguez et al. and Akazawa et al. to include means for displaying a new second button representing a new function corresponding to new function information as taught by Yen et al. for the advantage of the browser engine initiating the function module of the application corresponding to the function icon so that the application executes a specific function.

Regarding **claims 6 and 21**, Rodriguez et al. discloses a data processing apparatus (TV, 41) for receiving and processing data (see paragraph 0045) from a data providing apparatus (headend 11), said data processing apparatus (see paragraph 0018, the headend provides television signals to cable-ready television sets) comprising:

means for displaying first buttons (highlighted button e.g. Titanic) representing executable functions in a first display format (see fig 5) while displaying second buttons (non-highlighted regions e.g., sisters, story of us, Thomas Crown Affair etc) representing optional functions in a second display format (see fig 5 and 8, when "Titanic" is clicked on, the options "add comments, play from beginning of movie" etc is displayed);

means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons (see paragraph 0047, lines 9-21);

means for updating a display of the one of the second buttons by displaying the one of the second buttons in said first display format (see fig 8 and paragraph 0064, lines 4-14).

However, Rodriguez et al. fails to specifically disclose displaying a download button requesting to download software executing a function when a button is selected, means for downloading said software provided by said data processing apparatus when said download button is selected, means for displaying a new second button representing a new function corresponding to new function information.

Akazawa et al. discloses displaying a download button requesting to download software executing a function when a button is selected (see fig 7 (B4), paragraphs 0042, 0046, lines 15-20),

means for downloading said software provided by said data processing apparatus when said download button is selected, in response to a download request for software implementing a function associated with a button (see fig 7 (B4), paragraph 0047, lines 4-15),

execution of a download software (see fig 7 (B4)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for displaying first buttons representing executable functions in a first display format while displaying second buttons representing optional functions in a second display format; means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons in Rodriguez et al. to include displaying a download button requesting to

download software executing a function when a button is selected as taught by

Akazawa et al. for the advantage of receiving a result from a request.

However, Rodriguez et al. and Akazawa et al. fail to specifically disclose new

button display controlling means for displaying a new second button representing a new

function corresponding to new function information.

Yen et al. discloses means for displaying a new second button representing a

new function corresponding to new function information (see col. 3, lines 51-67 and fig

4, a new button is created and displayed corresponding with the new application

functions added for users' convenience).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify means for displaying first buttons

representing executable functions in a first display format while displaying second

buttons representing optional functions in a second display format; means for executing

a function associated with one of said first buttons in response to an actuation of one of

the first buttons and displaying a download button requesting to download software

executing a function when a button is selected in Rodriguez et al. and Akazawa et al. to

include means for displaying a new second button representing a new function

corresponding to new function information as taught by Yen et al. for the advantage of

the browser engine initiating the function module of the application corresponding to the

function icon so that the application executes a specific function.

Regarding **claims 7 and 22**, Rodriguez et al., Akazawa et al. and Yen et al.

discloses everything claimed as applied above (*see claims 6 and 21*). Akazawa et al.

discloses said data processing apparatus further comprises when software exists for

executing the new function and information about the new function is transmitted from

the data providing apparatus to the data processing apparatus (see paragraphs 0047,

0054, lines 20-30 and 0057).

Yen discloses means for displaying a new second button representing a new

function corresponding to new function information (see col. 3, lines 51-67 and fig 4).

Regarding **claims 9 and 10**, Rodriguez et al. discloses a data processing

method (TV, 41) for receiving and processing data (see paragraph 0045) from a data

providing apparatus (headend, 11) (see paragraph 0018, the headend provides

television signals to cable-ready television sets), said data processing method (TV, 41)

comprising the steps of:

displaying first buttons (highlighted button e.g. Titanic) representing executable

functions in a first display format (see fig 5) while displaying second buttons (non-

highlighted regions e.g., sisters, story of us, Thomas Crown Affair etc) representing

optional functions in a second display format (see fig 5 and 8, when "Titanic" is clicked

on, the options "add comments, play from beginning of movie" etc is displayed);

executing a function associated with one of said first buttons to an actuation of

one of the first buttons (see paragraph 0047, lines 9-21);

updating a display of the one of the second buttons by displaying the one of the second buttons in said first display format (see fig 8 and paragraph 0064, lines 4-14).

However, Rodriquez et al. fail to specifically disclose displaying a download button requesting to download software executing a function when a button is selected,

downloading said software provided by said data providing apparatus when said download button is selected, in response to a download request for software implementing a function associated with a button, displaying a new second button representing a new function corresponding to new function information, transmitting information about a new function to said data processing apparatus from said data providing apparatus.

Akazawa et al. discloses displaying a download button requesting to download software executing a function when a button is selected (see fig 7 (B4), paragraphs 0042, 0046, lines 15-20),

downloading means for downloading said software provided by said data processing apparatus when said download button is selected, in response to a download request for software implementing a function associated with a button (see fig 7 (B4), paragraph 0047, lines 4-15),

execution of a download software (see fig 7 (B4)), and

transmitting information about a new function to said data processing apparatus from said data providing apparatus (see paragraphs 0047, 0054, lines 20-30 and 0057).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for displaying first buttons

representing executable functions in a first display format while displaying second

buttons representing optional functions in a second display format; means for executing

a function associated with one of said first buttons in response to an actuation of one of

the first buttons in Rodriguez et al. to include displaying a download button requesting to

download software executing a function when a button is selected as taught by

Akazawa et al. for the advantage of receiving a result from a request.

However, Rodriguez et al. and Akazawa et al. fail to specifically disclose

displaying a new button representing a new function corresponding to new function

information.

Yen et al. discloses displaying a new button representing a new function

corresponding to new function information (see col. 3, lines 51-67 and fig 4, a new

button is created and displayed corresponding with the new application functions added

for users' convenience).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify means for displaying first buttons

representing executable functions in a first display format while displaying second

buttons representing optional functions in a second display format; means for executing

a function associated with one of said first buttons in response to an actuation of one of

the first buttons and displaying a download button requesting to download software

executing a function when a button is selected in Rodriguez et al. and Akazawa et al. to

include means for displaying a new second button representing a new function

corresponding to new function information as taught by Yen et al. for the advantage of

the browser engine initiating the function module of the application corresponding to the

function icon so that the application executes a specific function.

8.   **Claims 3, 4, 18 and 19** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748), Akazawa et al.

(U.S. Publication No. 2003/0065794) and Yen et al. (U.S. Patent No. 6,728,698) as

applied to *claim 1* above, and further in view of De Vos et al. (U.S. Patent No.

6,760,917).

        Regarding **claims 3 and 18**, Rodriguez et al., Akazawa et al. and Yen et al.

discloses everything claimed as applied above (*see claims 1 and 17*).

        However, Rodriguez et al., Akazawa et al. and Yen et al. fail to specifically

disclose wherein said data providing apparatus further comprises means for creating a

download history regarding said software downloaded by said data processing

apparatus.

        De Vos et al. discloses data providing apparatus (system manager, 60) further

comprises means for creating a download history regarding said software downloaded

by said data processing apparatus (set top box, 40) (see col. 6, lines 23-37).

        Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify means for displaying first buttons

representing executable functions in a first display format while displaying second

buttons representing optional functions in a second display format; means for executing

a function associated with one of said first buttons in response to an actuation of one of

the first buttons and displaying a download button requesting to download software

executing a function when a button is selected and displaying a new second button

representing a new function corresponding to new function information in Rodriguez et

al., Akazawa et al. and Yen et al. to include means for creating a download history

regarding said software downloaded by said data processing apparatus as taught by De

Vos et al. for the advantage of keeping an inventory of how many video-on demand

contents have been distributed to viewers.

Regarding **claims 4 and 19**, Rodriguez et al., Akazawa et al., Yen et al. and De

Vos et al. discloses everything claimed as applied above (*see claims 3 and 18*).

Rodriguez et al. discloses a communication system wherein said data providing

apparatus further comprises charging means for charging for the downloaded software

in keeping with said download history regarding said software transmitted to said data

processing apparatus (see fig 6 (111, 112, 113) and paragraph 0048).

9.   **Claims 5 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Rodriguez et al. (U.S. Publication No. 2007/0136748), Akazawa et al. (U.S.

Publication No. 2003/0065794), Yen et al. (U.S. Patent No. 6,728,698) and De Vos et

al. (U.S. Patent No. 6,760,917) as applied to *claim 3* above, and further in view of

Schlarb et al. (U. S. Patent No. 6,243,145) and Miyashita et al. (U. S. Publication No.

2001/0014876).

Regarding **claims 5 and 20,** Rodriguez et al., Akazawa et al., Yen et al. and De Vos et al. discloses everything claimed as applied above (*see claim 3*).

Rodriguez et al. discloses a communication system wherein said data providing apparatus (see fig 2 (11)).

However, Rodriguez et al., Akazawa et al., Yen et al. and De Vos et al. fail to specifically disclose means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history; and

means for transmitting user-oriented information belonging to said category recognized by said category recognizing means; and

wherein said data processing apparatus further comprises user-oriented information display controlling means for displaying said user-oriented information.

Schlarb et al. means for transmitting user-oriented information belonging to said category recognized by said category recognizing means (see fig 8 and col. 5, lines 4-10, when a user selects a category of sports, sports information is transmitted to the user); and

wherein said data processing apparatus further comprises user-oriented information display controlling means for displaying said user-oriented information (see fig 9, when a user selects a sports category, sports information is displayed on the user's television screen).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify Rodriguez et al., Akazawa et al., Yen et al.

and De Vos et al.'s invention with the above mentioned limitation as taught by Schlarb et al. for the advantage of providing different kinds of program to the user.

However, Akazawa et al., Yen et al., De Vos et al. and Schlarb et al. fails to specifically disclose a category recognizing means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history.

Miyashita discloses means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history (see paragraph 0059).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify Rodriguez et al., Akazawa et al., Yen et al., De Vos et al. and Schlarb et al.'s invention with the above mentioned limitation as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

10.   **Claims 8 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748), Akazawa et al. (U.S. Publication No. 2003/0065794), Yen et al. (U.S. Patent No. 6,728,698) as applied to *claim 6* above, and further in view of Schlarb et al. (U. S. Patent No. 6,243,145) and Miyashita et al. (U. S. Publication No. 2001/0014876).

Regarding **claims 8 and 23,** Rodriguez et al., Akazawa et al. and Yen et al. discloses everything claimed as applied above (*see claims 6 and 21*).

Rodriguez et al. discloses a communication system wherein said data providing apparatus (see fig 2 (11)).

However, Rodriguez et al., Akazawa et al. and Yen et al. fail to specifically disclose a category recognizing means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history; and

user-oriented information transmitting means for transmitting user-oriented information belonging to said category recognized by said category recognizing means; and

wherein said data processing apparatus further comprises user-oriented information display controlling means for displaying said user-oriented information.

Schlarb et al. discloses means for transmitting user-oriented information belonging to said category recognized by said category recognizing means (see fig 8 and col. 5, lines 4-10, when a user selects a category of sports, sports information is transmitted to the user); and

wherein said data processing apparatus further comprises user-oriented information display controlling means for displaying said user-oriented information (see fig 9, when a user selects a sports category, sports information is displayed on the user's television screen).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify Rodriguez et al., Akazawa et al. and Yen et

al.'s invention with the above mentioned limitation as taught by Schlarb et al. for the

advantage of providing different kinds of program to the user.

However, Rodriguez et al., Akazawa et al., Yen et al. and Schlarb et al. fails to

specifically disclose a category recognizing means for recognizing a category of the

software downloaded by said data processing apparatus with high frequency based on

said download history.

Miyashita discloses means for recognizing a category of the software

downloaded by said data processing apparatus with high frequency based on said

download history (see paragraph 0059).

Therefore, it would have been obvious for a person of ordinary skill in the art at

the time the invention was made to modify Rodriguez et al., Akazawa et al., Yen et al.,

and Schlarb et al.'s invention with the above mentioned limitation as taught by Miyashita

for the advantage of the content provider and advertisement provider to use the

received information for their marketing activities.

11.   **Claims 11, 12, 15 and 16** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748) in view of

Akazawa et al. (U.S. Publication No. 2003/0065794), De Vos et al. (U.S. Patent No.

6,760,917) and Miyashita et al. (U. S. Publication No. 2001/0014876).

Regarding **claim 11**, Rodriguez et al. discloses a data providing apparatus (see

fig 2 (11)) (see paragraph 0018, the headend provides television signals to cable-ready

television sets) for providing data to a data processing apparatus which receives and processes said data, said data providing apparatus comprising:

means for performing (see fig 2 (23, DNCS)) a relevant process in keeping (complete management) with said download history (see paragraph 0020, lines 1-3).

However, Rodriguez et al. fails to specifically disclose means for receiving a download request for said software from said data processing apparatus, means for transmitting said software to said data processing apparatus in response to said download request for said software, means for creating a download history regarding said software downloaded by said data processing apparatus.

Akazawa et al. discloses means for receiving said download request for said software from said data processing apparatus (see paragraphs 0046 and 0057),

means for transmitting said software to said data processing apparatus in response to said download request for said software (see paragraphs 0046 and 0057),

means for transmitting information of a new function to said data processing apparatus when software (PDF) exists for executing the new function (see paragraphs 0045, 0054, lines 20-30 and 0057).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for performing a relevant process in keeping with said download history in Rodriguez et al. to include means for receiving said download request for said software from said data processing apparatus as taught by Akazawa et al. for the advantage of receiving a result from a request.

However, Rodriguez et al. and Akazawa et al. fail to specifically disclose download history creating means for creating a download history regarding said software downloaded by said data processing apparatus.

De Vos et al. discloses means for creating a download history regarding said software downloaded by said data processing apparatus (set top box, 40) (see col. 11, lines 12-32, 48-62).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for performing a relevant process in keeping with said download history and means for receiving said download request for said software from said data processing apparatus in Rodriguez et al. and Akazawa et al. to include means for creating a download history regarding said software downloaded by said data processing apparatus as taught by De Vos et al. for the advantage of keeping an inventory of how many video-on demand contents have been distributed to viewers.

However, Rodriguez et al., Akazawa et al. and De Vos et al. fail to specifically disclose processing means including means for recognizing a category of the software downloaded by said processing apparatus with high frequency based on said download history.

Miyashita discloses means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history (see paragraph 0059, with the broadest reasonable interpretation, categories of software is functional equivalent to music/video content, information about

access status can be collected, such as music/video content that was downloaded and how many times, and in which time slot the content was most frequently downloaded).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify means for performing a relevant process in keeping with said download history, means for receiving said download request for said software from said data processing apparatus and means for creating a download history regarding said software downloaded by said data processing apparatus in Rodriguez et al., Akazawa et al. and De Vos et al. to include means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

Regarding **claim 12**, Rodriguez et al., Azakawa et al., De Vos et al. and Miyashita discloses everything claimed as applied above (*see claim 11*).

Rodriguez et al. discloses a communication system wherein said data providing apparatus further comprises means for charging for the downloaded software in keeping with said download history regarding said software transmitted to said data processing apparatus (see fig 6 (111, 112, 113) and paragraph 0048).

Regarding **claims 15 and 16**, Rodriguez et al. discloses a data providing apparatus (see fig 2 (11)) (see paragraph 0018, the headend provides television signals

to cable-ready television sets) for providing data to a data processing apparatus which receives and processes said data, said data providing apparatus comprising:

processing means for performing (see fig 2 (23, DNCS)) a relevant process in keeping (complete management) with said download history (see paragraph 0020, lines 1-3).

However, Rodriguez et al. fail to specifically disclose receiving a download request for said software from said data processing apparatus,

transmitting said software to said data processing apparatus in response to said download request for said software,

creating a download history regarding said software download by said data processing apparatus and

transmitting information of new function to said data processing apparatus when software exists for executing the new function.

Azakawa et al. discloses receiving a download request for said software from said data processing apparatus (see paragraphs 0046, 0057),

transmitting said software to said data processing apparatus in response to said download request for said software (see paragraphs 0046, 0057) and

transmitting information of new function to said data processing apparatus when software exists for executing the new function (see paragraphs 0047, 0054, lines 20-30 and 0057).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify processing means for performing a relevant

process in keeping in Rodriguez et al. to include receiving a download request for said software from said data processing apparatus as taught by Akazawa et al. for the advantage of receiving a result from a request.

However, Rodriguez et al. and Akazawa et al. fail to specifically disclose creating a download history regarding said software downloaded by said data processing apparatus.

De Vos et al. discloses creating a download history regarding said software downloaded by said data processing apparatus (see col. 6, lines 23-37); and

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify processing means for performing a relevant process in keeping and receiving a download request for said software from said data processing apparatus in Rodriguez et al. and Azakawa et al. to include creating a download history regarding said software downloaded by said data processing apparatus as taught by De Vos et al. for the advantage of keeping an inventory of how many video-on demand contents have been distributed to viewers.

However, Rodriguez et al., Akazawa et al. and De Vos et al. fail to specifically disclose recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history.

Miyashita discloses means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history (see paragraph 0059).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify processing means for performing a relevant process in keeping, receiving a download request for said software from said data processing apparatus and creating a download history regarding said software downloaded by said data processing apparatus in Rodriguez et al., Azakawa et al. and De Vos to include means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

12.   **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748), Akazawa et al. (U.S. Publication No. 2003/0065794), De Vos et al. (U.S. Patent No. 6,760,917) and Miyashita et al. (U.S. Publication No. 2001/0014876) as applied to *claim 11* above, and further in view of and Schlarb et al.

Regarding **claim 13,** Rodriguez et al., Akazawa et al., De Vos et al. and Miyashita et al. discloses everything claimed as applied above (*see claim 11*).

Rodriguez et al. discloses a communication system wherein said data providing apparatus (see fig 2 (11)).

However, Rodriguez et al., Akazawa et al., De Vos et al. and Miyashita et al. fail means for transmitting user-oriented information belonging to said category recognized by said category recognizing means.

Schlarb et al. discloses means for transmitting user-oriented information

belonging to said category recognized by said category recognizing means (see fig 8

and col. 5, lines 4-10, when a user selects a category of sports, sports information is

transmitted to the user); and

wherein said data processing apparatus further comprises user-oriented

information display controlling means for displaying said user-oriented information (see

fig 9, when a user selects a sports category, sports information is displayed on the

user's television screen).

Therefore, it would have been obvious for a person of ordinary skill in the art at

the time the invention was made to modify Rodriguez et al., Akazawa et al., De Vos et

al. and Miyashita et al.'s invention with the above mentioned limitation as taught by

Schlarb et al. for the advantage of providing different kinds of program to the user.

13.   **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over

Rodriguez et al. (U.S. Publication No. 2007/0136748), Akazawa et al. (U.S. Publication

No. 2003/0065794), De Vos et al. (U.S. Patent No. 6,760,917) and Miyashita et al. (U.

S. Publication No. 2001/0014876) as applied to *claim 11* above, and further in view of

Yen et al. (U.S. Patent No. 6,728,698).

Regarding **claim 14**, Rodriguez et al., Akazawa et al., De Vos et al. and

Miyashita et al. discloses everything claimed as applied above (*see claim 11*).

Rodriguez et al. discloses a communication system wherein said data providing

apparatus (see fig 2 (11)).

However, Rodriguez et al., Akazawa et al., De Vos et al. and Miyashita et al. fail to specifically disclose means which, if there exists software for executing any new function, transmits information about said new function to said data processing apparatus

Yen et al. discloses means which, if there exists software for executing any new function, transmits information about said new function to said data processing apparatus (see abstract, col. 4, lines 10-27).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Rodriguez et al., Akazawa et al., De Vos et al. and Miyashita et al.'s invention with the above mentioned limitation as taught by Yen et al. for the advantage of the browser engine initiating the function module of the application corresponding to the function icon so that the application executes a specific function.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NNENNA N. EKPO whose telephone number is (571)270-1663. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nnenna N. Ekpo/
Patent Examiner
November 25, 2009.

/Brian T. Pendleton/

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